

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

NIARA BURTON, <div style="text-align: right; padding-right: 20px;">Plaintiff,</div>)	
)	
)	C.A. No. 22-94 Johnstown
v.)	
)	District Judge Susan Paradise Baxter
JOHN E. WETZEL, et al., <div style="text-align: right; padding-right: 20px;">Defendants.</div>)	Magistrate Judge Keith A. Pesto

MEMORANDUM ORDER

Plaintiff Niara Burton, an inmate incarcerated at the State Correctional Institution at Greene in Waynesburg, Pennsylvania (“SCI-Greene”), initiated this action on June 9, 2022, by lodging a complaint without paying the filing fee or filing a motion to proceed *in forma pauperis* (“ifp motion”). The matter was referred to United States Magistrate Judge Keith A. Pesto for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. §636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

Plaintiff subsequently filed an ifp motion on August 2, 2022 [ECF No. 4], which was granted by Order dated August 6, 2022 [ECF No. 6], at which time the complaint was docketed [ECF No. 7]. Plaintiff later filed an amended complaint on May 11, 2023 [ECF No. 44], which is the operative pleading in this case. Named as Defendants in the amended complaint are numerous individuals employed by the Pennsylvania Department of Corrections (“DOC”), the majority of whom were staff members at Plaintiff’s prior places of incarceration, SCI-Muncy and SCI-Houtzdale, at all times relevant to this case. Though difficult to discern, Plaintiff alleges multiple claims under the first, fourth, and eighth amendments to the United States Constitution,

including, *inter alia*, an Eighth Amendment claim that she was sexually harassed in March 2020 and later raped in early April 2020 by Defendant Dranzo, a corrections officer at SCI-Muncy, and an Eighth Amendment claim that she was raped several times in April and May 2020 by Defendant Reynolds, another corrections officer at SCI-Muncy. (ECF No. 44, at ¶¶ 71-73).

On November 1, 2023, Magistrate Judge Pesto issued a report and recommendation (“R&R”) recommending that all claims other than Plaintiff’s Eighth Amendment claims against Defendants Dranzo and Reynolds, be dismissed as legally frivolous for failure to state a claim upon which relief may be granted, in accordance with 28 U.S.C. § 1915(e). [ECF No. 54]. In particular, Judge Pesto found that Plaintiff’s other claims are “fantastic,” conclusory, or barred as a matter of law and that, as such, they should be dismissed with prejudice, without leave to amend. Plaintiff filed timely objections to the R&R on December 12, 2023 [ECF No. 57]; however, the objections largely reiterate the allegations of the amended complaint without setting forth specific grounds on which this Court should decline to adopt the R&R.

On February 18, 2025, this matter was reassigned from Senior United States District Judge Kim R. Gibson to the undersigned, as presiding judge, in accordance with 28 U.S.C. § 137(a) and LCvR 40(G). [ECF No. 61]

After *de novo* review of the complaint and documents in this case, together with the report and recommendation and objections thereto, the following order is entered:

AND NOW, this 16th day of May, 2025;

IT IS HEREBY ORDERED that the report and recommendation of Magistrate Judge Pesto, issued November 1, 2023 [ECF No. 54], is adopted as the opinion of the Court, and all claims other than Plaintiff’s Eighth Amendment claims against Defendants Dranzo and

Reynolds, arising from alleged sexual misconduct that allegedly occurred in the months of March, April, and May 2020, are DISMISSED as frivolous, pursuant to 28 U.S.C. § 1915(e), based on Plaintiff's failure to state a claim upon which relief may be granted. Since amendment of such claims would be futile, such dismissal is with prejudice.

Based on the foregoing, the Clerk is directed to terminate all Defendants other than Defendants Dranzo and Reynolds from this case.


SUSAN PARADISE BAXTER
United States District Judge

cc: The Honorable Keith A. Pesto
United States Magistrate Judge

all parties of record